

County presses state for law enforcement funding deal

By
SCOT HEISEL

Lake County Leader
|
February 17, 2022 1:00 AM

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Attorneys representing the Lake County commissioners sent a letter to Gov. Greg Gianforte last week in the hopes of finding a resolution to a longstanding dispute regarding costs of law enforcement on the Flathead Indian Reservation.

The county is seeking several million dollars from the state related to “the unfunded mandate imposed upon the county by the state’s assumption of criminal law jurisdiction over native Americans and Native American territory of the Flathead Reservation pursuant to Public Law 280,” according to the letter, which was prepared by the law firm of Reep, Bell and Jasper based in Missoula.

Along with the letter, attorneys submitted a draft of a lawsuit the county is prepared to file if a resolution is not reached. Commissioner Bill Barron said Monday that the Governor’s Office acknowledged receiving the letter but had not yet provided a response.

The U.S. Congress enacted Public Law 280 in 1953 to transfer criminal jurisdiction over Native Americans to several states from the federal government. The Montana Legislature authorized such jurisdiction in the state in 1963, and the Confederated Salish and Kootenai Tribes passed an ordinance in 1965 that agreed to accept Public Law 280 jurisdiction.

The Flathead Reservation is the only one in Montana under such jurisdiction, according to the county’s letter. The CSKT Tribal Council withdrew consent to the misdemeanor jurisdiction in 1994, and such cases were transferred back to the Tribes. Felony enforcement, detention and prosecution, among other things, still fall to the county. The state’s other tribes opted to remain under the jurisdiction of the federal Bureau of Indian Affairs (BIA).

The county’s letter argues that the state has repeatedly acknowledged its obligation. A state fiscal analysis from 2017 estimates the costs associated with Public Law 280 to exceed \$4 million per year.

“People see the impact on law enforcement,” Commissioner Barron said Monday, “but they don’t see the impact on every other department in the county. We take money that should be going to other budgets ... we’re robbing from (other departments) to fund law enforcement. People have already voted in an extra levy for law enforcement, 17.9 mills, approximately 10 years ago. ... People of the county have really stepped up.”

Barron, a former Lake County Sheriff, said the county is seeking back payment for services as well, though the farthest back they can go is five years because of the statute of limitations.

During the 2021 Legislative session, Rep. Joe Read of Ronan introduced House Bill 656 establishing a reimbursement of nearly \$2.2 million, to be adjusted annually. The bill’s final draft reduced the reimbursement amount to \$1 and granted the county the option of withdrawing from the jurisdiction, a move that would transfer responsibility to the FBI and the BIA.

Commissioners say withdrawing from the jurisdiction “would have lasting and detrimental impacts on law enforcement and public safety within the reservation for CSKT members” and all Lake County residents.

The issue of Public Law 280 was among several topics discussed during the CSKT Tribal Council on Thursday at Pablo. Chief Deputy Prosecutor James Lapotka attended the meeting in person, and Commissioners Gale Decker and Steve Stanley attended remotely. They used the occasion to provide an update on several areas of cooperation between the county and the Tribes. Other topics discussed included the Flathead Indian Irrigation Project, the newly formed water management board, federal ARPA funds, and a pending marijuana tax.

Decker told members of the Tribal Council that commissioners support the Public Law 280 model and believe it’s best for all residents, but the lack of funding has reached a breaking point.

“We believe it provides the best framework for law enforcement on the Reservation,” Decker said. “But it has gotten to the point where it takes up anywhere from 40% to 60% of our county budget.”

The county has presented several potential short-term and long-term solutions to the impasse over funding, including diversion of funds from the general fund, the state’s special revenue funds or the BIA through the American Rescue Plan Act.

Included with the county’s letter to Gianforte is a nine-minute short film describing the hardship of the current situation for Lake County government and the county’s taxpayers. The video features interviews with Commissioner Barron, state Sen. Greg Hertz of Polson, Sheriff Don Bell, District Court Judge Deborah “Kim” Christopher, County Attorney Steve Eschenbacher, Jail Commander John Todd and others, who describe the county’s burden. County officials argue the situation is becoming a public health emergency since the system is so overburdened that dangerous criminals frequently are running free.

“We turn away at least 80 felony warrants a month, and they get a ticket and are released,” Sheriff Bell says in the video.

The county posted a link on its Facebook page (Lake County, Montana) Monday afternoon where both the letter and the video can be viewed.

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